**IN THE HIGH COURT OF JUDIATURE AT BOMBAY**
**CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO.9609 OF 2004**

Pushpa Jaywant Khadtale .. Petitioner.
Vs.
Jaywant Lokshamanrao Khadtale .. Respondent.

Mr.K.S.Patil for the petitioner.

**CORAM : D.B.BHOSALE, J.**

**DATED : 9TH DECEMBER, 2004**

P.C.:

. Heard Mr.Patil, learned counsel for the petitioner.

2. It is apparent from the impugned order that it was passed without considering the judgment of this court in **Shailaja A.Sawant Vs. Sayajirao Ganpatrao Patil 2004(2) Maharashtra Law Journal 419** which has been confirmed by the Division Bench of this court in **Chintaman Sukhdeo Kaklij and Others Vs. Shivaji Bhausaheb Gadhe and Others in Writ Petition No.2847 of 2004** vide its judgment dated 12/13 August, 2004. Keeping that in view the order dated 7.10.2004 (Exhibit-E) by which the petitioner prayed for setting aside "No W.S." order is quashed and set aside and application Exhibit-25 is

restored to file. The trial court to decide Exhibit-25 application afresh, after giving an opportunity of being heard to the plaintiff, in the light of the observations made by this court in the aforesaid judgments. The petition is disposed of.

**(D.B.Bhosale, J.)**